

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ABDELAZIS BENNOUR	)	
Petitioner,	)	
	)	
v.	)	C.A. NO. 04-12149-MLW
	)	
BRUCE CHADBOURNE, ET AL.,	)	
Respondents.	)	

ORDER

WOLF, D.J.

October 13, 2004

Yesterday, on October 12, 2004, petitioner Abdelazis Bennour, an immigration detainee confined at Suffolk County House of Correction, filed a pro se Motion for Emergency Withholding of Removal/Stay of Deportation. Today, on October 13, 2004, the Respondents filed a motion to dismiss for lack of subject matter jurisdiction, contending that Bennour failed to exhaust his administrative remedies as required by 8 U.S.C. §1252(d)(1) (the "Motion"). The Motion states that Bennour is scheduled to be deported on October 15, 2004. As the Motion was just filed today and mailed to Bennour, he has not had an opportunity to respond. Therefore, the court cannot make even an informed preliminary judgment on its merits. However, Bennour will be irreparably harmed if he is deported before the court can properly evaluate his likelihood of success on the merits.

In view of the foregoing, it is hereby ORDERED that:

1. Bennour's deportation is temporarily STAYED.
2. Respondent shall, by October 14, 2004, serve by hand on

Bennour a copy of the Motion (Docket No. 5).

3. Bennour shall, by October 22, 2004, respond to the Motion, addressing whether he has exhausted his administrative remedies and, if so, why he waited until three days before his scheduled deportation to file his petition.

4. A hearing on the Motion will be held on October 26, 2004, at 1:00 p.m. The Clerk shall make arrangements with the Sheriff of Suffolk County to have Bennour brought to the hearing.

/s/ MARK L. WOLF  
UNITED STATES DISTRICT COURT